IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 699 OF 2004

Balkrishna Devan Prabhunaik ...Petitioner

Versus

Bank of Baroda & Others ...Respondents

.....

Mr. Rajesh Datar, counsel for Petitioner

Mr. D. S. Paranjape, counsel for Respondent No.1.

.....

CORAM: B. H. MARLAPALLE, J.

DATED: 18TH FEBRUARY, 2005

P. C.:-

1. Heard Mr. Datar, the learned counsel for the appellant, plaintiff in Regular Civil Suit No. 141 of 2003. In the said suit an application below Exh.5 came to be filed seeking injunction against the respondent No.1 Bank which had sought recovery proceedings against the respondent Nos. 2 to 6 on account of default in payment of the bank loan. The said application has been dismissed by the learned C.J.S.D. at Panvel by the impugned order dated 7.7.2004.

2. It is apparent that the recovery proceedings initiated by the Bank before the Debt Recovery Tribunal are registered as Civil Suit No. 3394 of

2000 and it was stated that the suit property i.e. Flat No.10, situated in Shivdarshan Building at Panvel, was mortgaged in favour of the Bank by the respondent Nos. 2 to 6. The present appellant claimed that the same suit property was purchased by him and he was on occupation of the same since 1.1.2000 initially on the basis of an agreement for sale dated 1.1.2000 and subsequently the sale deed registered on 19.6.2001. Prima facie, it appears that the title in respect of the suit property was transferred by the sale deed registered on 19.6.2001 and the recovery proceedings were initiated much before the said date by the Bank.

3. Under such circumstances, the reasoning set out by the trial court in dismissing the application for injunction at Exh.5 cannot be held to be erroneous and therefore, no interference is called for in the impugned order dated 7.7.2004 in this appeal. The petitioner’s remedy against his Principals i.e. the respondent Nos. 2 to 6 would not be affected by dismissal of the injunction application.

4. Hence, the appeal is dismissed in limine.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATIONNO. 179 OF 2005
IN
APPEAL FROM ORDER NO. 699 OF 2004

Balkrishna Devan Prabhunaik ...Applicant

Versus

Bank of Baroda & Others ...Respondents

.....

Mr. Rajesh Datar, counsel for Applicant

Mr. D. S. Paranjape, counsel for Respondent No.1.

.....

CORAM: B. H. MARLAPALLE, J.

DATED: 18TH FEBRUARY, 2005

P. C.:-

. As per the bailif’s report, the respondent Nos. 2 to 6 have been served and hence, this civil application does not survive and the same is disposed of as infructuous.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 938 OF 2004
IN
APPEAL FROM ORDER NO. 699 OF 2004

Balkrishna Devan Prabhunaik ...Applicant

Versus

Bank of Baroda & Others ...Respondents

.....

Mr. Rajesh Datar, counsel for Applicant

Mr. D. S. Paranjape, counsel for Respondent No.1.

.....

CORAM: B. H. MARLAPALLE, J.

DATED: 18TH FEBRUARY, 2005

P. C.:-

. In view of dismissal of Appeal from Order, this Civil Application does not survive and the same is disposed of as infructuous.